

In the Matter of Malinda Woods-Dupree

DOP Docket No. 2005-3842

(Merit System Board, decided January 11, 2006)

Malinda Woods-Dupree, a Charge Nurse, 12 Months with Ancora Psychiatric Hospital, Department of Human Services, appeals the denial of sick leave injury (SLI) benefits.

On February 12, 2005, while attempting to calm an agitated patient, the appellant injured her right arm and neck when she was struck by the patient. She was examined at Kessler Memorial Hospital Occupational Health (KMHOH) and diagnosed with right trapezius myofascial pain. She was returned to light duty, which the appointing authority could not accommodate. The appellant returned to KMHOH on February 15 and February 18, 2005 for follow-up treatment. She continued to be returned to light duty which the appointing authority could not accommodate. On February 18, 2005, the appellant was given a follow-up appointment of March 4, 2005. The medical note from the February 18, 2005 treatment indicated that the appellant was on vacation until February 24, 2005. The appointing authority granted the appellant SLI benefits for the period from February 12 through 18, 2005, but denied further SLI benefits from February 19 to March 4, 2005 due to the appellant's unavailability for treatment during the period from February 19 through February 24, 2005 since she was on vacation. The appellant returned to work on March 4, 2005.

On appeal to the Merit System Board (Board), the appellant argues that she attended every medical appointment she was given by State-authorized physicians. The appellant states that the appointing authority denied her SLI benefits because she did not attend a medical appointment on February 19, 2005. She submits documentation which establishes that her medical appointments were on February 15, 18 and March 4, 2005. Additionally, the appellant submits an Employee Attendance Report for the period from February 20 to March 19, 2005 which indicates that her regularly scheduled days off were February 20, 22, 27 and 28, 2005. The report also indicates that she took vacation leave on February 23 through 26, 2005.

In response, the appointing authority asserts that after it reviewed the reports from KMHOH which indicated that the appellant would be on vacation and her treatment would not resume until March 4, 2005, her SLI benefits were stopped. The appointing authority argues that since the appellant was on vacation and could not continue to receive medical treatment, she prolonged her treatment and inability to return to work and was not entitled to continue to receive SLI benefits.

CONCLUSION

According to uniform SLI regulations, in order to be compensable, an injury or illness resulting in disability must be work related and the burden of proof to establish entitlement to SLI benefits by a preponderance of the evidence rests with the appellant. *See N.J.A.C. 4A:6-1.6(c) and N.J.A.C. 4A:6-1.7(h).*

In the instant matter, the appointing authority acknowledged the work-related nature of the appellant's injury and granted her SLI benefits from the date of her injury until she temporarily stopped medical treatment due to her vacation. The Board finds that the appellant's absence from work was, therefore, not due to her injury, but due to her vacation. Specifically, the appellant has failed to submit any documentation which clearly establishes that her work-related injury, and not her vacation prevented her from continuing medical treatment or returning to work during this time period. Accordingly, the Board finds that the appellant has not sustained her burden of proof and is not entitled to receive SLI benefits during the period from February 19 to March 4, 2005.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.